

MDR Tracking Number: M5-05-1485-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 1-14-05.

The IRO reviewed office visits, hot/cold packs, electrical stimulation (unattended), manual therapy techniques, therapeutic activities, therapeutic exercises, 99080 (record copies), range of motion measurements, muscle testing, and prolonged physician services.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. On 2-9-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

Code 99080-73 billed for date of service 5-6-04 was denied as unnecessary medical; however, per Rule 129.5, the TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter; therefore, recommend reimbursement of \$15.00.

ORDER

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees outlined above in accordance with TWCC reimbursement methodologies regarding Work Status Reports per Commission Rule 134.202 (e)(8), plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Order is applicable to date of service 5-6-04 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 10th day of March 2005.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision



Specialty Independent Review Organization, Inc.

March 3, 2005

Hilda Baker
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-05-1485-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

This patient was injured on her job with Lowe's when she was working stocking compressors and was bent at the waist lifting a box to a shelf and had an onset of low back pain. A report from a reviewer on the case indicates that the patient was actually helping a co-worker lift the boxes to the shelf and the co-worker dropped or let go of the box and the full weight of the compressor was shifted to the side of the patient in this case, but no other mention of this co-worker is made in any of the records found. The patient had an immediate onset of low back pain. The patient was initially treated at the company's facility and was noted to be demonstrating a symptom magnification pattern at that point in time. An MRI report is noted in the report of Brian Glenn, DC, the reviewer for the carrier, which was noted to be normal. No MRI report was found in the documentation received from either the carrier or the treating doctor. A letter of explanation to the IRO indicates that the patient was working, as described in the original reports, bending at the waist and stocking compressors. The patient denied any previous low back injuries or complaints of low back pain. She began treating with Dr. Cody Doyle on November 5, 2003 for the complaint of low back pain with radicular symptoms. Dr. Doyle's letter indicated that his office notes are indicative of significant improvement and that the care was necessary because the patient was unable to do her job. He also cites the Texas Labor Code, 408.021.

Records Reviewed:

The insurer presents no documentation on this case, but did send a peer review performed by Brian Glenn, DC for Forte'. The requestor on this case sent a letter of explanation, a subsequent narrative report from May 4, 2004, office SOAP notes from February 2, 2004 through June 22nd 2005, Physical medicine notes from February 5, 2004 through June 9, 2004, TWCC 73 forms dated February 9, 2004, April 14, 2004, May 6, 2004, May 13, 2004, June 18, 2004 and June 22, 2004.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of office visits level III - 99213, hot/cold packs - 97010, electrical stimulation (unattended) - G0283, manual therapy techniques - 97140, therapeutic activities - 97530, therapeutic exercises - 97110, level IV office visits - 99214, TWCC Reports - 99080, ROM measurements - 95851-ROM, muscle testing of the extremities - 95831, and prolonged physical services - 99354.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

The notes on this case do not indicate that there was a significant pathology on this patient. The treating clinic did not provide any form of diagnostic testing to indicate a positive EMG or MRI and gave no indication as to why the patient failed to progress as would be expected. The patient's pain level was consistently 8/10 or higher and never improved throughout the treatment program. As late as June 22, 2004, the patient was rating her pain at 9/10 and the treating clinic did nothing different of significance to investigate the claims of the patient's pain. To continue to adjust and perform both passive and active treatment to a patient with this level of unabated pain would be inappropriate without at least some form of improvement in the patient's condition. From the first date of treatment to the last, nothing indicates the patient progressed in any form, either functionally or subjectively. The reviewer is unable to find any treatment protocol or guideline that would sanction this type of treatment as within reasonable protocol. In searching for such a protocol, the reviewer found that the TCA Guidelines for Quality Assurance required a demonstration of progress as part of an ongoing treatment protocol. The reviewer also searched the North American Spine Society Guidelines and found that progress also should be demonstrated to be considered for continuity of a treatment plan, which did not happen in this case. No guideline could be found that would fit the protocol used in this case. As a result, the reviewer finds the care to not be medically necessary on this patient.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director